

Wisconsin County Treasurers' Association

Date: February 17, 2010

To: Chairperson Erpenbach & Senators Carpenter, Lassa, Lazich, Darling & Kanavas

From: Vicki Brown, Rock County Treasurer & WCTA Legislative Committee Chair

Subject: Support of AB 159, the Sharing of Omitted Taxes and the Charge Back of Personal Property Taxes

At the request of the county treasurers, this bill was introduced to amend what county treasurers feel is a flaw in the current handling of omitted taxes and also personal property charge backs.

There are three parts to this legislation. First, under current law, when a taxation district error overcharges a property taxpayer, all taxing jurisdictions, such as the local school district, the local technical college and the county, are asked to give the money back. Also under current law, when a taxation district error omits real or personal property from assessment, that assessment may be added to the assessment roll over the next two years. However, the taxation district keeps all omitted taxes. In other words, when a municipality undercharges a taxpayer, such as not including the assessment of a new home, and then corrects the error, the taxpayer will pay the same total amount of property taxes but the local municipality keeps all of the funds. The other taxing jurisdictions, such as the local school district, technical college and county, do not receive any portion of omitted taxes.

According to the Department of Revenue, the statewide total of omitted taxes for 2005-2007 was approximately \$4.7 million. Again, the county, state, school districts and technical colleges did not receive any of these taxes. The municipalities, as allowed under current law, kept all \$4.7 million. On the other hand, during this same time period the amount of rescinded refunded taxes, where the taxpayers were over charged and then were paid back by **all** of the taxing jurisdictions, was approximately \$14 million.

This bill allows for omitted taxes that exceed \$5,000 in a municipality to be shared with all taxing jurisdictions, just as rescinded and refunded taxes are shared with all taxing jurisdictions. The \$5,000 threshold allows municipalities to keep the taxes for overlooked decks and garages, but the overlooked subdivision and commercial developments would be shared.

Also, under current law, municipalities must pay the other taxing jurisdictions in full for all personal property taxes, such as machinery and equipment used in the course of business, whether the personal property taxes are paid or not. Current law allows municipalities to recover such taxes by taking civil court action. If the personal property taxes remain unpaid, the following year in February or March, the municipality may charge back to each taxing jurisdiction their proportionate share of the unpaid personal property taxes. Taxing jurisdictions have 30 days to pay the municipality upon receipt of a charge back notice.

The second part of this bill would allow the school districts, counties and technical colleges to pay the municipalities within 30 days at the end of the charge back period, specifically no later than May 1, to eliminate a two month long payment processing period for taxing jurisdictions. So instead of writing one or two charge back checks a week for two months, the school districts, technical colleges and counties can process all payments at the end of the chargeback period, but no later than May 1.

The final piece of this bill would only allow municipalities to charge back the personal property taxes of a business entity that has ceased operations, has filed for bankruptcy protection, or if the personal property has been removed from the assessment roll. This bill does not eliminate a municipality's ability to charge back uncollected personal property taxes. It restricts a municipality in that they cannot charge pack personal property taxes of an ongoing business entity. Municipalities issue permits and licenses and as such have some element of control over ongoing local businesses.

In the spring of 2008, the Town of Beloit charged back nearly \$10,000 for a gas station/express mart located on leased land. When questioned by this county treasurer as to why a business with a liquor license should be allowed to have unpaid personal property taxes, the town changed their policy and now requires personal property taxes be paid before issuing a license or permit.

In 2007 personal property charge backs in Rock County totaled nearly \$68,000. In 2008 personal property charge backs in Rock County totaled just over \$80,000. Last year the total increased to almost \$107,000. Included were such on-going business entities as a limousine service, gas stations, a video store, local attorneys, even a check cashing store. The city of Janesville has charged back the personal property taxes of the custom design jewelry store highlighted in the local paper during the recent holiday shopping season for the past three years. And the city has charged back the personal property taxes for the past four or five years of the local framing shop that framed my autographed Ron Dayne towel.

Again, this bill does **not** eliminate a municipality's ability to charge back uncollected personal property taxes. It restricts a municipality in that they cannot charge back personal property taxes of an ongoing business entity.

The county treasurers are asking, with the amendments as agreed to with the Towns Association and the League of Municipalities, for your support to pass this bill out of this committee and out of the Senate.

Thank you for your consideration.

CC: Senator Robson, Representative Hixson

County unpaid personal property taxes total \$80,576

Some businesses avoid paying taxes, but the City of Beloit works hard to obtain money

By Cheryl Scott

Daily News staff writer

There are some stores, gas stations and other businesses in Rock County that have not paid their personal property taxes for 2006, but they are still allowed to operate, said Rock County Treasurer Vicki Brown.

Taxing jurisdictions, such as the county, state, schools and technical college must cover the delinquent personal property taxes that businesses have failed to pay, Brown said.

Brown has to include an additional \$21,576 in the annual county budget for Rock County's share of the \$80,576 in unpaid 2006 personal property taxes.

"The school districts get hurt worse," Brown said.

The county typically owes 25 percent of the unpaid personal property taxes, but the school districts must pay 40

percent, she said.

Rock County's unpaid 2006 personal property taxes payable in 2007 total \$80,576, which is higher than in previous years. Last year, the amount of unpaid personal property taxes was \$68,000, and the year before, \$63,600 was unpaid, Brown said.

"The point is there are ongoing businesses that are still in business, but haven't paid their personal property taxes," Brown said.

Personal property includes machinery, equipment, furniture, fixtures and inventory used in the course of operating a business. Real estate taxes include land and improvements, Brown said.

Out of Rock County's \$215 million in tax bills, about \$209 million is real estate taxes, while \$6 million is in personal property taxes, Brown said.

Owing \$80,000 out of \$6 million isn't that bad, Brown

said, but she wonders why businesses are allowed to stay open without paying their personal property taxes.

With real estate taxes, the county can foreclose on the property if a business does not pay, but collecting delinquent personal property taxes is up to the municipalities, Brown said.

Brown said she gives the City of Beloit "a pat on the back" for its ordinance that denies licenses and permits to any businesses with unpaid personal property tax bills.

The amount of unpaid personal property taxes in Beloit has gone down since the city

passed the ordinance about 10 years ago, said City of Beloit Assistant City Manager Stephen Gregg and Brown.

Gregg said the city passed the ordinance because, "We felt that it was important that businesses and landlords were current on what they owed."

The amount of unpaid personal property taxes varies, but important times to catch businesses that haven't paid

are usually the same - in June and in February. At the end of June, any restaurants and bars that want liquor licenses must have paid their personal property taxes or the liquor license is not renewed, Gregg said. In February, landlords must pay taxes before they obtain rental permits. Without the permits, landlords could get a citation, Gregg said.

The City of Beloit is the second largest city in the county, but the personal property charge backs are less than those for the Town of Beloit, Brown said.

In 2006, the unpaid personal property taxes in the City of Beloit totaled \$4,657,55, said City Treasurer Lillian Morrow. The amount had steadily declined since 2000, when the personal property charge backs were \$47,300.43. The 2007 amount will not be known until February 2008, since businesses and landlords still have time to pay their taxes when they obtain permits, Morrow said.

Brown said a listing of the businesses in Rock County that failed to pay personal property taxes is posted on the bulletin board in the county treasurer's office.

Municipalities that aren't as good at collecting personal property taxes include the City of Janesville, whose businesses owe more than half of the \$80,576 in delinquent personal property taxes, Brown said.

Municipalities without an ordinance on personal property taxes have six years to recover delinquent personal property taxes through civil action. If a municipality later collects unpaid taxes, the funds go back to the taxing jurisdictions, which include the county, state, schools and technical college.

The City of Beloit also sends out collection letters to individuals who don't need permits and licenses. After a while, the city hands matters over to a collection agency in Madison called HE Stark, Morrow said.

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MEMORANDUM

TO: Honorable Members of the Senate Committee on Health, Health Insurance,
Privacy, Property Tax Relief, and Revenue

FROM: David Callender, Legislative Associate 

DATE: February 17, 2010

SUBJECT: Support for Assembly Bill 159

The Wisconsin Counties Association (WCA) supports Assembly Bill 159. WCA has worked closely with the Wisconsin Treasurers' Association and other parties on this bill and believes that the version passed by the Assembly represents a fair and equitable way of addressing the issues of omitted taxes and delinquent personal property taxes.

WCA respectfully requests the Committee to support Assembly Bill 159.

Please feel free to contact WCA for further information.